

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JASMINE BESISO and MYRONE POWELL,

Plaintiff

v.

MATT BARNES and DEMARCUS COUSINS,

Defendants.

Case No. 16-CV-9461

***Combined Discovery
Demands and First
Notice to Produce Documents***

PLEASE TAKE NOTICE, that Defendant, DeMarcus Cousins, by his attorneys, WADE CLARK MULCAHY, states you are hereby required to comply with this Combined Discovery Demand and First Notice to Produce within twenty (20) days from the date of service hereof:

First Notice to Produce Documents

Serve upon the undersigned

1. All documents that relate to or support your claim that this defendant was negligent.
2. All documents that relate to or support your claim that this defendant had notice, either actual or constructive, of the condition that your claim caused your accident.
3. All documents that relate to or support your claim that plaintiffs sustained permanent or disabling injuries.
4. All documents that relate to or support your claim that plaintiffs sustained lost income or diminished earning capacity as a result of the incident in question.
5. All documents, bills, and statements that relate to or support your claim quantifying plaintiffs' total medical bills.

6. All documents, bills, and statements that relate to or support your claim quantifying those amounts paid by any collateral source including insurance for plaintiffs' medical bills.

7. All documents, bills, and statements that relate to or support your claim quantifying those amounts paid out of pocket by or on behalf of plaintiffs for plaintiffs' medical bills.

Demand for Names and Addresses of Experts

Set forth in writing:

1. The name and address of each and every expert witness.
2. The qualifications of each and every expert witness.
3. The subject matter on which each and every expert is expected to testify.
4. The substance of the facts on which each and every expert is expected to testify.
5. The substance of the opinion of each and every witness.
6. A summary of the grounds of each and every expert's opinion.

Demand for Statements

Serve upon the undersigned a copy of the statement of any party, agent, servant and/or employee of any party represented by the undersigned whether signed or unsigned or the transcript of any electronically recorded statement.

PLEASE TAKE FURTHER NOTICE that if said party is a corporation, the undersigned demands that you serve upon him a copy of a written statement, whether signed or unsigned, or the transcript of any electronically recorded statement of any officer, director, agent, servant or employee.

Demand for Witnesses (Eyewitness, Notice and Admissions):

Serve upon and deliver to the undersigned, the names and addresses of any and all witnesses to the occurrence complained of herein, whether or not obtained by investigation made after the date of the occurrence and regardless of how made.

PLEASE TAKE FURTHER NOTICE, that demand is also made for the names and addresses of any and all witnesses whose testimony will be relied on to prove the existence of a defective condition, whether or not obtained by investigation made after the date of the occurrence and regardless of how made.

PLEASE TAKE FURTHER NOTICE, that demand is also made for the names and addresses of any witnesses concerning any admission allegedly made by any party.

PLEASE TAKE FURTHER NOTICE, that demand is also made for the name and last known place of residence or business of any person with information or knowledge of facts relevant to the incident(s) or occurrence(s) which is the subject of this litigation.

PLEASE TAKE FURTHER NOTICE, that this demand shall be deemed to continue during the pendency of the action including the trial thereof. In the event of failure or refusal to comply with this demand, the defendant(s) shall seek to preclude the testimony of any such witnesses.

Demand for Accident Reports

Serve upon the undersigned copies of all written reports of the accident or occurrence which is the subject of this lawsuit prepared in the regular course of business operations or practices of any person, firm, corporation, association or other public or private entity.

Demand for Collateral Source Information Pursuant to CPLR 4545

Serve upon the undersigned:

1. A statement whether any part of the cost of medical care, dental care, custodial care, rehabilitation services, loss of earnings, or other economic loss sought to be recovered herein was replaced or indemnified, in whole or in part, from any collateral source such as insurance, social security, workers' compensation, employee benefits programs, etc.

2. If so, state the full name and address of each organization, program or entity providing such replacement or indemnification.

3. An itemized statement of the amount in which each such claim of economic loss was replaced or indemnified by each organization, program or entity identified in (2) above.

4. Duly executed and acknowledged original written authorizations allowing us to obtain all such records.

PLEASE TAKE FURTHER NOTICE that, you are required to timely supplement your responses to the foregoing demands with any additional or further information which becomes known to you or your attorneys during this action from plaintiff's health, disability or other insurer or entity paying or reimbursing such economic loss.

Demand for Employment Records

Serve upon the undersigned:

1. The names and addresses of all plaintiff(s)' employers for five (5) years prior to the accident and up to the present, including the dates of employment by each such employer;

2. Duly executed and acknowledged original written authorizations to allow us to obtain the complete employment records for the plaintiff(s) from each of the employers identified in (1) above.

Demand for Medical Records

Please take notice, that demand is hereby made that you serve upon the undersigned duly executed HIPAA compliant authorizations for the release of records pertaining to the care and treatment rendered to plaintiff(s) in any and all hospitals.

Demand is additionally made for the production of the records of treating physicians and HIPAA compliant authorizations permitting the inspection of said records, together with a list of the names and addresses of all treating physicians.

Demand is additionally made for the production of medical reports of those physicians who have previously treated or examined the plaintiff(s) and who will testify on his/her behalf. These shall include a detailed recital of the injuries and conditions as to which testimony will be offered at the trial, referring to and identifying those x-rays and technician reports which will be offered at the trial.

Demand is additionally made for all medical records, reports, charts, x-rays and tests (or duly executed authorization to obtain same), from any and all sources concerning the injuries, illness, physical or mental condition of plaintiff(s) as respects any injury, illness, physical or mental condition referred to in plaintiff(s) bill of particulars, answers to interrogatories or deposition.

Demand Pursuant to The Medicare, Medicaid and SCHIP Extension Act of 2007

1. Pursuant to the requirements of Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (42 U.S.C. §§1395(y)(b)(7) and (b) (8), provide:

a. The plaintiffs' dates of birth;

b. The plaintiffs' Social Security Numbers;

c. Execute and return the attached Medicare Informational Questionnaire as required by The Centers for Medicare & Medicaid Services pursuant to Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA), a new federal law that became effective January 1, 2009.

d. The plaintiffs' Medicare Health Insurance Claim Numbers (HICNs), Medicaid file number, New York State Department of Social Services (DSS) file number, and/or Medicare Secondary Payor (MSP) file number, if applicable;

e. If the plaintiffs have applied for or been awarded Medicare and/or Medicaid and/or DSS and/or MSP benefits, all information/documentation related to the application and/or award of said benefits;

f. If the plaintiffs have applied for or been awarded Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI), all information/documentation related to the application and/or award of said benefits;

g. A statement as to whether plaintiffs are eligible for Medicare or Medicaid;

h. If the plaintiffs have been denied Medicare, Medicaid, SSI and/or SSDI benefits, provide all information/documentation concerning any such denial; and

i. If the plaintiffs have appealed or intends to appeal the denial of Medicare, Medicaid, SSI and/or SSDI benefits, provide all information/documentation of any such appeal or intent to appeal of the denial of such benefits;

j. State whether Medicare, Medicaid and/or the Social Security Administration has a lien on any potential award, judgment or settlement in this lawsuit and, if so, state the amount of such liens and provide all information/documentation relative to these liens.

2. Pursuant to CPLR §3101(a), provide executed and acknowledged written authorizations permitting defendant's attorneys and defendant's representatives to obtain and make copies of all Medicare records, Parts A and B, specifying the correct address of said Medicare office, along with the plaintiff's Social Security Number and file number. Said defendant further demands that a signed original of the attached Authorization of Use and Disclosure of Health Information and/or a specific authorization required by Medicare be executed and provided to the undersigned for use in conjunction with this demand.

3. Pursuant to CPLR §3101(a), provide duly executed and acknowledged written authorizations permitting defendant's attorneys and defendant's representatives to obtain and make copies of all Medicaid records, specifying the correct address of said Medicaid office, along with the plaintiff's Social Security Number and the file number. Said defendant further demands that a signed original of the attached Authorization for Release of Medicaid Protected Information, and/or any other specific authorization required by Medicaid be executed and provided for use in conjunction with this demand as it pertains to health information.

4. If plaintiff received or applied for Social Security benefits, including but not limited to SSI or SSDI benefits, provide a duly executed and acknowledged written authorization setting forth the correct Social Security file number, allowing the defendant's attorneys and defendant's representatives to obtain and make copies of all files, records, and reports of the Social Security Administration regarding the plaintiff. Said defendant further demands that a signed original of the attached Social Security Administration Consent for Release of

Information and/or any other specific authorization required by the Social Security Administration be executed and provided for use in conjunction with this demand as it pertains to health information.

Demand for Photographs

Serve upon the undersigned:

1. All photographs, videotapes and visual depictions of the accident site or location.
2. All photographs, videotapes and visual depictions relating to any actual or constructive notice provided to the defendant.
3. All photographs, videotapes and visual depictions depicting plaintiff's injuries arising out of the accident in question.

The above items are to be produced at the offices of WADE CLARK MULCAHY, 180 Maiden Lane - 9th Floor, New York, New York 10038, where they shall be physically inspected and reproduced by the undersigned attorneys or others acting on their behalf.

PLEASE TAKE FURTHER NOTICE that, you are required to timely supplement your responses to the foregoing Combined Discovery Demands with any additional or further information which becomes known to you or your attorneys during this action.

PLEASE TAKE FURTHER NOTICE that, in the event you fail to comply with the foregoing Combined Discovery Demands, we will seek to preclude you from offering in evidence at trial any matter which is not disclosed by you in response to this demand, in addition to all other remedies available to this party.

Dated: New York, New York
May 5, 2017

/s/
Dennis M. Wade
Michael A. Bono
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Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA), a new federal law that became effective January 1, 2009, requires that liability insurers (including self-insurers), no-fault insurers, and workers' compensation plans report specific information about Medicare beneficiaries who have other insurance coverage. This reporting is to assist CMS and other insurance plans to properly coordinate payment of benefits among plans so that your claims are paid promptly and correctly.

Please review this picture of the Medicare card to determine if you have, or have ever had, a similar Medicare card.

[illegible]

I understand that the information requested is to assist the requesting insurance arrangement to accurately coordinate benefits with Medicare and to meet its mandatory reporting obligations under Medicare law.

Claimant Name (Please Print)

Claim Number

Name of Person Completing This Form If Claimant is Unable (Please Print)

Signature of Person Completing This Form Date

If you have completed Sections I and II above, stop here. If you are refusing to provide the information requested in Sections I and II, proceed to Section III.

Section III

Claimant Name (Please Print)

Claim Number

For the reason(s) listed below, I have not provided the information requested. I understand that if I am a Medicare beneficiary and I do not provide the requested information, I may be violating obligations as a beneficiary to assist Medicare in coordinating benefits to pay my claims correctly and promptly.

Reason(s) for Refusal to Provide Requested Information:

Signature of Person Completing This Form Date